

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION

LEE FLOYD BEBLEY,

PLAINTIFF

v.

CASE NO. 07-5028

ANDREA GARRETT, Nurse; and
DOCTOR HUSKINS; SGT. TOMLIN;
LT. CARTER; CAPTAIN PETRAY;
DEPUTY CYPERT; DEPUTY HADLEY

DEFENDANTS

ORDER

On August 24, 2007, Defendants filed a summary judgment motion (Doc. 20 in 07-5028 and Doc. 24 in 07-5036)¹. To assist plaintiff in responding to the summary judgment motion, the undersigned is propounding a questionnaire. The court will consider plaintiff's response to the questionnaire in issuing an opinion on the summary judgment motion.

For this reason, Lee Floyd Bebley is hereby directed to complete, sign, and return the attached response to defendants' summary judgment motion on or before **November 26, 2007**. Plaintiff's failure to respond within the required period of time may subject this matter to dismissal for failure to comply with a court order.

IT IS SO ORDERED this 26th day of October 2007.

/s/ *J. Marschewski*

HON. JAMES R. MARSCHEWSKI
UNITED STATES MAGISTRATE JUDGE

¹ Although Plaintiff's cases have been consolidated, Defendants filed two separate Summary Judgment Motions, one in each case. This response will serve as a consolidated response to both Motions and the Court's Order regarding the Motions for Summary Judgment will be consolidated to one Order filed in the lead case 07-5028. (See Doc. 14, directing all future pleadings to be filed in the lead case, 07-5028).

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RESPONSE TO SUMMARY JUDGMENT MOTION

TO: Lee Floyd Bebley

On August 24, 2007, Defendants filed a Motion for Summary Judgment. Accordingly, these questions and answers will serve as your response to defendants' motion for summary judgment.. You may use additional sheets of paper in responding to these questions. You must file this response by **November 26, 2007.**

1. Are you alleging a custom or policy of Benton County violated your constitutional rights?

Answer: Yes _____ No _____

If "yes," please explain what custom or policy caused your federal constitutional rights to be violated.

2. Are you suing Plaintiff's in their individual capacities?

Answer: Yes _____ No _____

3. You have alleged excessive force by jailers at the Benton County Jail.

Below, describe the incident where you allege excessive force occurred. Include dates.

Answer:

(a) Describe your injuries that resulted from excessive force being used against you. Include any medical records.

(b) You were seen by a doctor for your arm after the incident, including x-rays.

Answer: Agree _____ Disagree _____

If you disagree, please explain the records in Plaintiff's exhibit no. 3.

(c) Specifically describe how medical care was delayed or denied to you after this incident.

(d) Are you currently seeking or receiving medical care for your injury?

Answer: Yes _____ No _____

If yes, describe the care you are seeking or receiving. If no, explain why you are not seeking medical care.

4. You have alleged you were served pork products in violation of your religious practices. This allegation is solely based upon the Jell-o, jelly, and pudding that was on your tray.

Answer: Agree _____ Disagree _____

If you disagree, describe what other foods you were served that violated your religious practices and note when you submitted grievances to alert the jailers to this issue.

5. You were started on a cardiac tray on January 16, 2007. You had complained on December 26, 2006 that you had been eating “foods that you like” but that you were not feeling well and needed your tray changed.

Answer: Agree _____ Disagree _____

If you disagree, explain below, including and explanation to Defendant's Exhibit No. 4.

6. You allege you were served an inadequate diet, or a diet with inadequate nutritional content. Describe below your injuries from this diet. Attach all medical records.

(a) Are you currently seeking treatment for your injuries due to the inadequate diet?

Answer: Yes No

(b) List below all physicians you have seen for injuries related to inadequate diet, the dates, and the outcome of treatment.

7. You allege that from December 26, 2006 to January 25, 2007 your cholesterol level was not checked, although you requested it be checked. Describe below your injuries from your cholesterol not being checked.

8. You allege that on December 20, 2006, you were given the incorrect medication. Describe below your injuries from being given the wrong medication.

9. You allege you were denied by the “ladies working visitation” a Koran and prayer rug. However, Captain Petray approved the use of a prayer rug and a copy of the Koran for you and you

were later given a copy of the Koran that was purchased by the jail.

Answer: Agree _____ Disagree _____

If you disagree, explain below.

10. On February 5, 2007, Sgt. Tomlin allowed you to pray in your cell, until it was time to close the doors, then you would be allowed to pray in the day room.

Answer: Agree _____ Disagree _____

If you disagree, explain below.

11. When you refused to end your prayer in your cell, Sgt. Tomlin used a simple arm bar hold to take you to the ground. You continued to resist Sgt. Tomlin and his orders.

Answer: Agree _____ Disagree _____

If you disagree, explain below.

12. You saw medical personnel each time you complained of elbow or arm pain.

Answer: Agree _____ Disagree _____

If you disagree, explain below, including an explanation for Defendant's exhibit No. 3.

Detail below any further response you would like to make to defendants' summary judgment motion. If you have exhibits you would like the court to consider, you may attach them to this response.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND
CORRECT.

EXECUTED ON THIS DAY OF 2007.

LEE FLOYD BEBLEY